MSS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

NOTICE OF MOTION NO. 1111 OF 2006

IN

SUIT NO. 2958 OF 1994

LIYAKAT MOHAMMED SAHEB KURAWALE & ORS. .. PLAINTIFFS

Vs.

SHRI LIYAKAT ALI KARIM PARKAR & ORS. .. DEFENDANTS

AND

ZULEKHA ALI PARKAR & ANR. .. APPLICANTS

Ms. Anita Castelinoh with A. Sharma i/b S.M. Kazi for plaintiffs

Ms. Mamta Sadh with A. Purohit i/b Zohair & Co. for D-1

Mr. A. Joshi i/b L.J. Law for D-2 & 3

**CORAM**: **SMT. RANJANA DESAI, J.**

DATE: AUGUST 10, 2007.

**P.C.**

. This motion is taken out by the plaintiffs. Following is the material prayer:

. "(a) That pending the hearing and final disposal of the above Suit, the Defendants and/or their

respective servants, agents and/or person/persons claiming through or under them or any of them be restrained by an order and injunction of this Hon'ble Court from acting in pursuance of alleged Joint Development Agreement dated 12th March, 1994 being Exhibit "C" to the plaint, the irrevocable Power of Attorney dated 12th March, 1994 and notarized on 15th March, 1994 being Exhibit "B" to the Plaint and declaration dated 4th April, 1994 being Exhibit "E" to the Plaint".

2. On 8/8/06 Justice Nishita Mhatre has directed the parties to maintain status quo as of today in respect of the suit property.

3. I have heard the learned counsel for the plaintiff, the learned counsel for defendant 1 and learned counsel for defendants 2 and 3.

4. The order passed by Justice Mhatre is in operation till date. The learned counsel for defendant 1 pointed out that a motion making similar prayers was taken out by the father-in-law of the present plaintiff. The said motion is still pending. However, the plaintiffs have not obtained any order on it. She submitted that, therefore, no

case is made out either for confirming the order passed by Justice Mhatre or for passing interim order in terms of prayer (a) in favour of the plaintiffs.

5. The learned counsel for defendants 2 and 3 submitted that the case of defendants 2 and 3 stands on par with that of the plaintiffs and, therefore, the plaintiffs cannot restrain them from disposing of the property nor can a status quo order be passed against them considering the scope of the suit.

6. In the peculiar facts and circumstances of the case, since the order passed by this court dated 8/8/06 is in operation till date and the plaintiffs have not moved for any order during this period, I feel that during the pendency of the suit, the said order should remain in operation. Needless to say that all contentions of the plaintiffs and as well as the defendants are left open.

7. Motion is disposed of.

JUDGE.